

PLANNING AND ZONING COMMISSION  
STAFF REPORT

September 4, 2014



**Right-of-way Abandonment case no. RA14-05:  
Bryan Original Townsite Block 113**

**SIZE AND LOCATION:** a 20-foot wide and 250-foot long public alley right-of-way extending west from South Bryan Avenue between West 31<sup>st</sup> Street and South Sims Avenue in Block 113 of Bryan Original Townsite on property currently addressed as 600 South Bryan Avenue

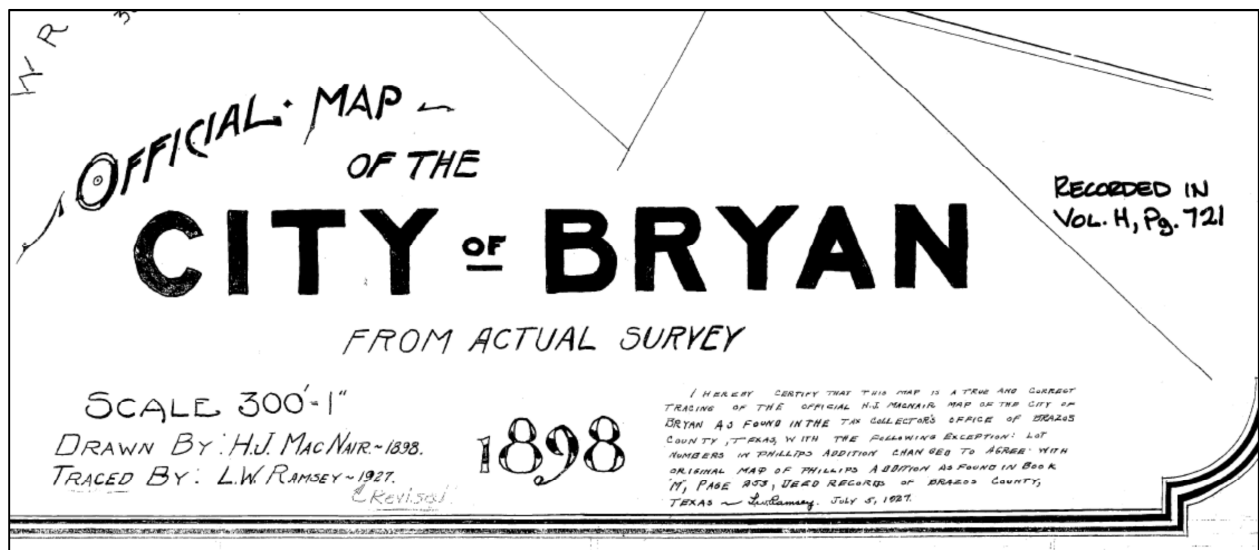
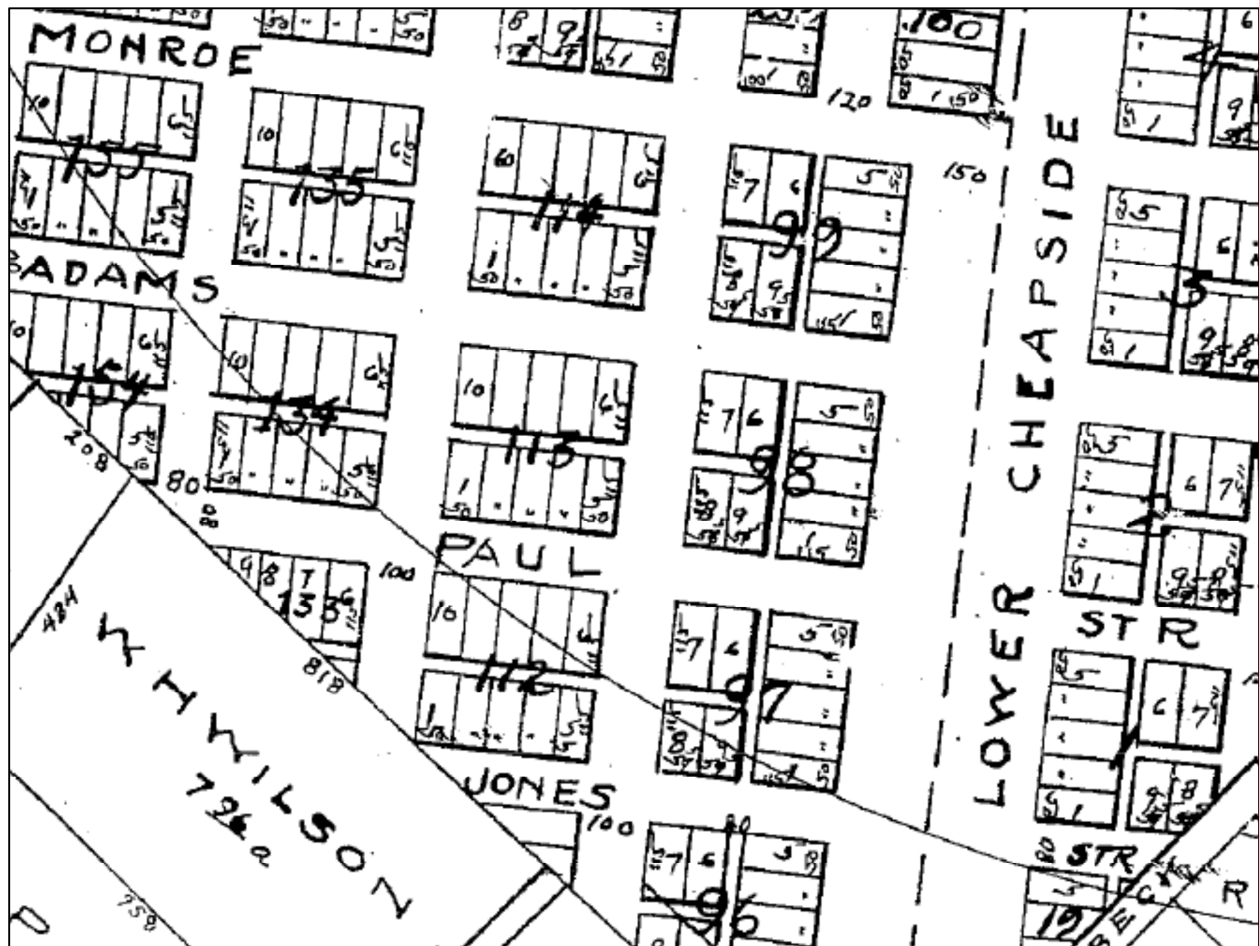
**APPLICANT(S):** Phillip Garrett

**STAFF CONTACT:** Randy Haynes, Senior Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested right-of-way abandonment.



DETAIL FROM H.J. MACNAIR MAP OF THE CITY OF BRYAN, 1898:



## **RIGHT-OF-WAY REQUESTED TO BE ABANDONED:**

The applicant, Phillip Garrett, is requesting an official quit-claim deed to land shown on the official map of Bryan as public alley right-of-way within Block 113 of the Bryan Original Townsite, to formally establish his ownership of the tract along with the adjoining land. The tract requested to be abandoned and quit-claimed is 5,000 square feet in area and has never been improved as a driving surface.

On April 9, 1860, William Joel Bryan sold to Messrs Abram Groesbeck and W.R. Baker 640 acres of land in Brazos County. This transaction was recorded at the County Clerk's office in Boonville in Volume F, Page 169. The subject 640 acres is the one square mile parcel that is what we today know as the Bryan Original Townsite (BOTS). Groesbeck and Baker were at the time President and Secretary of the Houston & Texas Central Railroad (H&TC) which by 1860 had completed construction from Galveston to what is now the town of Millican. In return for right of way across Mr. Bryan's land north of Millican for the H&TC Rail Road, Baker and Groesbeck agreed to purchase the parcel and lay out a future town site. The chief engineer of the H&TC, Theodore Kosse, laid out the lots and blocks of the new town to be called "Bryan City".

It is important to note that from that date, April 9, 1860, Groesbeck and Baker owned all the land that is now the original town site of Bryan and would be selling or otherwise transferring that land to others for decades to come.

According to a deed filed in county records, Volume G, Page 549, Groesbeck and Baker sold all of blocks 113 and 114 in the town of Bryan City to Mr. Spencer Ford. The transaction took place in Houston on October 20, 1866, and was recorded in Brazos County on November 16, 1866.

Also in October 1866, Brazos County residents voted to move the county seat and post office from Boonville to Bryan. That same year, the residents of Bryan voted to form a town and elect a government and town marshal. Because of the laws governing reconstruction of the former Confederate States, the State of Texas was unable to approve the incorporation until 1871. The first train reached Bryan on August 19, 1867. At that time, more than 5,000 people lived in the immediate area.

Although Bryan functioned as a town before it incorporated in 1871, the official entity that became the City of Bryan never possessed an alley right of way in Block 113. The entire block was sold to Mr. Ford five years before the City of Bryan existed. The H&TC chief engineer, Theodore Kosse, may not have drawn a plat of Bryan until late 1865 or early 1866, being otherwise engaged in service to the Confederate States. Whenever it was ultimately produced however, such a drawing by Kosse would have been used by the property owners, Groesbeck and Baker, for selling lots in the earliest days.

The instrument currently used as the final plat of the Bryan Original Townsite is an Official City Map commissioned by the Bryan City Commission (Council) in 1898 and drawn by H.J. McNair, a surveyor and civil engineer from Houston. That map was recorded in Volume H, Page 721, over 30 years after all of Blocks 113 and 114 were sold to Mr. Ford.

In order to eliminate a cloud on the title of the property caused by the 1898 H.J. M<sup>ac</sup>Nair map that depicts a public alley in Block 113, Mr. Garrett is requesting that a formal quit-claim deed be executed by the City of Bryan for that area of Block 113 that would have been the location of an alley were the ownership history of the property similar to other blocks within the original town site.

Acting on behalf of the general public, only Bryan's City Council is authorized to officially abandon rights of way dedicated for public use. The Planning and Zoning Commission hears and makes a recommendation on proposals to abandon any such rights-of-way.

## **ANALYSIS AND RECOMMENDATION:**

Upon review by the members of the SDRC it has been found that no public or franchised utilities are now nor have ever been installed within the land described as an alley. The Conlee-Garrett buildings were built on the land over 50 years ago. Based on the aforementioned and evidence of ownership, staff is of the opinion that there never has been a public alley in Block 113 and even if the City of Bryan was able to claim ownership of property within that block, there is no public need for such interest at this time nor will there likely be in the future.

The Site Development Review Committee and staff recommend **approving** the request to abandon and quit-claim the subject property as requested. Officially releasing all claims to the subject tract, as recommended, will allow the current and future owners clear title and rights to their property.